

Proclamation

by

Matthew G. Bevin
Governor

of the

Commonwealth of Kentucky



To All To Whom These Presents Shall Come:

WHEREAS, it is imperative that the Commonwealth of Kentucky provides protection for our important quasi-governmental entities, such as our regional universities, rape crisis centers, domestic violence shelters, local health departments, and regional mental health services agencies, which are so critical to our citizens, from potential insolvency, and even bankruptcy, due to the onset of significantly higher employer pension contributions; and

WHEREAS, because the true costs of the Commonwealth's pension obligations have been ignored or disregarded for many years, the risk of service interruptions at these critical agencies is now very real; and

WHEREAS, prior to 2015, employers were not allowed to cease participation in Kentucky Employees' Retirement System ("KERS"); and

WHEREAS, in 2015, the General Assembly adopted a framework that allows certain KERS and County Employees' Retirement System ("CERS") employers to voluntarily cease participation in their retirement system; and

WHEREAS, under current statutory procedures for ceasing participation, the employer must pay its share of the unfunded liability in a lump sum; and

WHEREAS, under current statutory procedures for ceasing participation, on a go-forward basis, employers ceasing participation are required to establish a fiscally responsible alternative retirement plan; and

WHEREAS, the current procedure protects all benefits earned through the date of cessation; and

WHEREAS, only a few employers have taken advantage of current law and have ceased participation in the plans by making lump-sum payments; and

WHEREAS, in recent years, contribution rates have increased to unprecedented levels, causing more employers to consider leaving the KERS – Non-Hazardous ("KERS-NH") system; and

WHEREAS, in 2017, the KERS Board of Trustees ("KERS Board") adjusted the investment return and payroll assumptions for the KERS-NH in order for them to be

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more accurate and realistic, which resulted in higher contribution rates beginning in FY 2018; and

WHEREAS, in 2018, the General Assembly gave temporary relief to the quasi-governmental organizations by allowing them to continue making retirement contributions at the FY 2018 levels, and thus, for FY 2019, those organizations continued to make contributions at 49.47% of payroll rather than the 83.43% rate that applied to the other 230 participating employers, thereby underfunding the KERS-NH plan by \$132 million in FY 2019; and

WHEREAS, that relief expired June 30, 2019; and

WHEREAS, in April 2019, as required by current law, the KERS Board reevaluated actuarial assumptions, including life expectancy, retirement rates, employee turnover, changes in future compensation, etc.; and

WHEREAS, applying the combined effect of more realistic actuarial assumptions to the FY 2018 calculations, the FY 2019 contribution rate for KERS-NH would have been approximately 4% higher; and

WHEREAS, the effect of the assumption changes for KERS-NH will be implemented in the calculation of contribution rates for the next biennium; and

WHEREAS, because of rising costs, many employers currently benefitting from the contribution relief (which expired at the end of June 2019) are desirous of ceasing participation in the KERS-NH to avoid the financially burdensome higher contribution rates for FY 2020 and future fiscal years; and

WHEREAS, some employers would consider ceasing participation from KERS-NH, but they do not have the financial resources to pay a lump sum and, therefore, they cannot withdraw under current law, and most withdrawing quasi-governmental organizations need to have the option of paying their liability in installments; and

WHEREAS, employers should be given options including options to pay with an installment obligation:

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NOW THEREFORE, due to the serious problems facing the Commonwealth of Kentucky's public pension systems and the extraordinary need for immediate legislative relief for crucial quasi-governmental employers, allowing them the option of ceasing participation in the Kentucky Retirement Systems under certain conditions, pursuant to the power vested in me by Section 80 of the Constitution of the Commonwealth of Kentucky, I, Matthew G. Bevin, Governor, do hereby issue this proclamation convening the Kentucky General Assembly in Extraordinary Session at the Seat of Government, Frankfort, Kentucky at 8:00 A.M. (EDT), Friday, July 19, 2019, for the sole purpose of considering legislation to enact a nonseverable, comprehensive Act to do the following:

1. Provide time-limited financial relief by setting the employer contribution rate retroactively from July 1, 2019, not to extend past June 30, 2020, at 49.47 percent, consisting of 41.06 percent for pension and 8.41 percent for health insurance for nonhazardous duty employees participating in the Kentucky Employees Retirement System who are employed by state-supported universities and community colleges and quasi-governmental agencies, such as mental health/mental retardation boards, local and district health departments, domestic violence shelters, rape crisis centers, child advocacy centers, and any other agency eligible to voluntarily cease participating in the Kentucky Employees Retirement System pursuant to KRS 61.522.
2. Provide a one-time window where state-supported universities and community colleges and quasi-governmental agencies, such as local and district health departments, mental health/mental retardation boards, domestic violence shelters, rape crisis centers, child advocacy centers, and any other agency eligible to voluntarily cease participating in the Kentucky Employees Retirement System pursuant to KRS 61.522, could voluntarily cease participating in KERS effective June 30, 2020, by paying the actuarial costs, by lump-sum or in installments.
3. Provide each employer the exclusive option to allow all of its Tier I and Tier II employees to continue participating in KERS for their remaining term of

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- employment with the ceasing employer, provided the employer elects to do so and agrees to pay the additional costs for the employees to continue participating.
4. Provide that any KERS agency choosing to cease participation must make an irrevocable election on or after April 1, 2020, but prior to May 1, 2020 by agency resolution, but can rescind a previously submitted resolution prior to May 1, 2020.
 5. Provide that the ceasing KERS institution must offer to employees who would no longer participate in KERS a defined contribution plan or an alternative retirement program that shall not include a defined benefit plan.
 6. Provide that the employer shall hold the Kentucky Retirement Systems harmless, including staff and board members, from legal claims resulting from an employer ceasing participation.
 7. Provide in the case of a KERS ceasing employer that is delinquent in making installment payments under the provisions of this Act for 90 days or more: (1) Tier I/II employees of employers who have opted for their employees to continue to participate after the employer ceases participation shall not accrue additional service/benefits until the delinquent payments are up to date; (2) KRS may file an action in Franklin Circuit Court to collect any delinquent installment payments owed by the employer; and (3) that KRS shall notify the Finance & Administration Cabinet of the delinquent payments and the cabinet may withhold or intercept from the ceasing employer undisbursed state appropriations otherwise payable to the employer in order to bring the employer payments in compliance.
 8. Provide that any employer that is voluntarily ceasing participation under this Act shall be required to pledge any security in any relevant real estate, chattel paper, deposit accounts, documents, goods covered by documents, instruments, investment property, letters of credit rights, and money to the costs of ceasing participation until all costs of ceasing participation are paid in full.
 9. Provide that KERS agencies that voluntarily cease participating in KERS as provided by this Act, and who are currently participating in the Kentucky

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Employees Health Plan (KEHP), may continue participating in the KEHP after ceasing participation.

10. Provide that KERS agencies that voluntarily cease participating in KERS as provided by this Act, and who are currently participating in the life insurance plans offered by the Kentucky Personnel Cabinet, may continue participating in the life insurance plans after ceasing participation.
11. Provide authorization to ceasing KERS employers allowing them to seek public/private financing for the costs associated with ceasing participation.
12. Provide that the Act will become effective upon the signature of the Governor of the Commonwealth.

DONE AT THE CAPITOL, in the City of Frankfort, this the eighteenth (18th) day of July, in the year of our Lord Two Thousand and Nineteen (2019) and in the year of the Commonwealth Two Hundred and Twenty Eight.


MATTHEW G. BEVIN
Governor


ALISON LUNDERGAN GRIMES
Secretary of State

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DATE

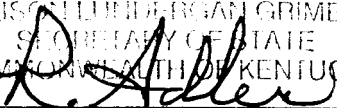
7/18/19

ALISON LUTHERGIAN GRIMES

SECRETARY OF STATE

COMMONWEALTH OF KENTUCKY

BY

A large, stylized handwritten signature in black ink, appearing to read 'A. Grimes', is written over the printed name and title of the Secretary of State.